

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSHUA LEVI ALGER,

Plaintiff,

Case No. 24-cv-11859

Honorable Linda V. Parker

v.

HEIDI WASHINGTON,
S. CAMPBELL, L. MCROBERTS,
WARREN, P. JOHNSON, HAIRSTON,
STANLEY KINNER, GEORGE STEPHENSON,
NORBERT FRANSZACK, MONA GOLSON,
A. LONG, DIVER, PATTON, SHAW, JOHN DOE,
TROWBRIDGE, and JOHNSON,

Defendants.

OPINION AND ORDER
ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, GRANTING MOTION TO DISMISS, AND SUA
SPONTE DISMISSING CLAIMS AGAINST DEFENDANT JOHN DOE

Plaintiff commenced this lawsuit against Defendants on July 18, 2024, asserting violations of his civil rights arising from his incarceration. On November 18, 2024, the identified defendants filed a motion to dismiss. (ECF No. 27.) The matter has been assigned to Magistrate Judge Patricia T. Morris for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 28.)

On November 20, 2024, Magistrate Judge Morris issued an order requiring Plaintiff to file a response to Defendants’ motion. (ECF No. 29.) Despite receiving several extensions of time to respond, with the last deadline being April 24, 2025, the Court did not receive a response from Plaintiff by that deadline. On April 29, 2025, Magistrate Judge Morris issued a report and recommendation (“R&R”) recommending that the Court grant the motion to dismiss and sua sponte dismiss Plaintiff’s claims against the John Doe defendant. (ECF No. 48.) At the conclusion of the R&R, Magistrate Judge Morris advised the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at PageID.306-07.) Magistrate Judge Morris further specifically advised the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.* at PageID.307)

On May 6, the Court received Plaintiff’s response to the motion to dismiss, which was signed and dated April 24. (ECF No. 39.) As such, it was timely. *See Houston v. Lack*, 487 U.S. 266, 270 (1988) (recognizing the “prison mailbox rule” which deems a prisoner’s filing to be made when the prisoner delivers the filing to prison authorities for filing). However, in that filing, Plaintiff indicated that he still had not received a copy of Defendants’ motion, despite Magistrate Judge Morris’ indication that a copy was being sent. (*Id.*) Plaintiff further indicated that, as a

result, he could not respond to Defendants’ motion in “any meaningful way.” (*Id.* at PageID.309.)

In light of Plaintiff’s representations, the Court issued an order on May 14, granting him twenty-one (21) days from the date of the decision to file a response to Defendants’ arguments in their motion to dismiss and to Magistrate Judge Morris’ R&R. The Court also sent Plaintiff another copy of Defendants’ motion and Magistrate Judge Morris’ R&R. Plaintiff’s filing was due on June 6. As of today’s date, nothing has been filed.

Plaintiff has therefore waived any objections to the R&R. *See, e.g., Thomas v. Arn*, 474 U.S. 140 (1985). Having carefully reviewed Magistrate Judge Morris’ recommendations, the Court concurs with the conclusions and adopts Magistrate Judge Morris’ recommendations.

Accordingly,

IT IS ORDERED that Defendants’ motion to dismiss (ECF No. 27) is **GRANTED** and the John Doe Defendant is dismissed.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: June 12, 2025

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, June 12, 2025, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan

Case Manager